Y 4.G 74/7:P 93/PT.2

SPECIAL INQUIRY ON INVASION OF PRIVACY

(Part 2)

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

MAY 24, 1966

Printed for the use of the
Committee on Government Operations

U.S. GOVERNMENT PRINTING OFFICE
64-352 WASHINGTON : 1966

COMMITTEE ON GOVERNMENT OPERATIONS

WILLIAM L. DAWSON, Illinois, *Chairman*

CHET HOLIFIELD, California
JACK BROOKS, Texas
L. H. FOUNTAIN, North Carolina
PORTER HARDY, JR., Virginia
JOHN A. BLATNIK, Minnesota
ROBERT E. JONES, Alabama
EDWARD A. GARMATZ, Maryland
JOHN E. MOSS, California
DANTE B. FASCELL, Florida
HENRY S. REUSS, Wisconsin
JOHN S. MONAGAN, Connecticut
TORBERT H. MACDONALD, Massachusetts
J. EDWARD ROUSH, Indiana
WILLIAM S. MOORHEAD, Pennsylvania
CORNELIUS E. GALLAGHER, New Jersey
WILLIAM J. RANDALL, Missouri
BENJAMIN S. ROSENTHAL, New York
JIM WRIGHT, Texas
FERNAND J. ST GERMAIN, Rhode Island
DAVID S. KING, Utah
JOHN G. DOW, New York
HENRY HELSTOSKI, New Jersey

FLORENCE P. DWYER, New Jersey
OGDEN R. REID, New York
FRANK HORTON, New York
DONALD RUMSFELD, Illinois
WILLIAM L. DICKINSON, Alabama
JOHN N. ERLENBORN, Illinois
HOWARD H. CALLAWAY, Georgia
JOHN W. WYDLER, New York
ROBERT DOLE, Kansas
CLARENCE J. BROWN, JR., Ohio
JACK EDWARDS, Alabama

CHRISTINE RAY DAVIS, *Staff Director*
JAMES A. LANIGAN, *General Counsel*
MILES Q. ROMNEY, *Associate General Counsel*
J. P. CARLSON, *Minority Counsel*
WILLIAM H. COPENHAVER, *Minority Professional Staff*

SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY

CORNELIUS E. GALLAGHER, New Jersey, *Chairman*

BENJAMIN S. ROSENTHAL, New York
FRANK HORTON, New York

NORMAN G. CORNISH, *Chief of Special Inquiry*
CHARLOTTE C. BICKETT, *Clerk*

CONTENTS

	Page
Statement of Hon. John W. Macy, Jr., Chairman, U.S. Civil Service Commission	2
Additional material supplied by—	
Beasley, D. Otis, Assistant Secretary of the Interior, letter to Hon. Cornelius E. Gallagher, dated September 2, 1965	9
Examples of controversial questions contained in the personality test used by the Federal Aviation Agency	16
Gallagher, Hon. Cornelius E., a Representative in Congress from the State of New Jersey, and chairman, Special Subcommittee on Invasion of Privacy, letter to Hon. John W. Macy, Jr., Chairman, U.S. Civil Service Commission, dated—	
January 21, 1966	15
September 27, 1966	18
Lyons, Kenneth T., national president, National Association of Government Employees, letter to Hon. Cornelius E. Gallagher, dated September 13, 1966	18
Macy, Hon. John W., Jr., Chairman, U.S. Civil Service Commission, letters to—	
Agency heads, dated May 18, 1966	4
Gallagher, Hon. Cornelius E., dated—	
February 9, 1966	16
April 1, 1966	17
October 28, 1966	19
Mortimer, Mildred Preen, Oldwick, N.J., letter to Hon. Cornelius E. Gallagher, dated September 1, 1966	18

SPECIAL INQUIRY ON INVASION OF PRIVACY

TUESDAY, MAY 24, 1966

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met at 10:10 a.m., in room 2247, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman of the subcommittee) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, and Frank Horton.

Also present: Norman G. Cornish, chief of special inquiry; and Miles Q. Romney, associate general counsel, Committee on Government Operations; J. P. Carlson, minority counsel.

Mr. GALLAGHER. The subcommittee will come to order.

Today's hearing is probably the final session of the Special Subcommittee on Invasion of Privacy regarding the subject of personality testing. This subcommittee has endeavored for the past year to bring about certain reforms in our Federal agencies in the use of personality testing. We have attempted to point out the dangers in Government sponsorship of tests which ask employees, school children, and others questions about their personal lives, thoughts, and beliefs.

Our primary concern has been the issue of consent or—to say it another way—the removal of compulsion from this testing whether it be for employment or research purposes.

We have raised questions about the constitutionality of personality testing in the setting of Government activity. We believe our inquiry has stimulated great thought and indeed significant changes both in and out of the Government. Experts in the sciences and law are giving new attention to the problem of invasion of privacy. In turn, Government officials are now considering the right to privacy more consciously in their deliberations and programs. Probably most important, the American people are becoming more and more aware of how important the right to privacy is in the preservation of a free society.

I think it is especially appropriate that our final witness is the Honorable John W. Macy, Jr., Chairman of the U.S. Civil Service Commission. Mr. Macy has been extremely cooperative with this subcommittee and I know he shares our concern over the problem of invasion of privacy. Mr. Macy, as a result of our hearings last year, promised to conduct some studies aimed at extending the Commission's prohibition on personality testing to groups outside of the competitive civil service.

I have asked him to give the subcommittee a progress report on these matters. I might say at the outset that his comments on

employees of Federal contractors are of special significance and should have a great impact if followed up with meaningful action.

Mr. Macy, we are delighted to welcome you here again. Before proceeding, please let me express the gratitude of the subcommittee and myself for your conscientious work in this field.

Would you please proceed?

STATEMENT OF HON. JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

Mr. MACY. Thank you very much, Mr. Chairman. I appreciate the opportunity to be back with you and the other members of the subcommittee once again.

Your inquiry in this field has been very helpful to the executive branch and I welcome an opportunity to bring you up to date on what has taken place. In response to your request, I am reporting to you on a number of matters relating to your general interest in the use of personality tests subsequent to my testimony before you June 3, last year.

You have asked me to comment on the following issues. First, one issue of interest to your inquiry I reported by letter on September 16 last year, which appeared in the published hearings on pages 54 and 55. However, I will briefly review it with you at this time.

This issue is the use of personality tests by agencies whose positions are wholly or substantially excepted by statute, or who have a sizable group of positions excepted from civil service requirements.

Briefly, my review of the use of personality-test methods by the Atomic Energy Commission, the Veterans' Administration, the Tennessee Valley Authority, the U.S. Information Agency, the Department of Justice, the Department of State, and the Central Intelligence Agency led me to conclude that in those few instances where personality tests are being used, they are carefully controlled by responsible staff under medical supervision and the test results are carefully shielded as part of confidential medical files. In this regard, therefore, the policies and practices of these agencies are consistent with the policy of the Civil Service Commission which applies to positions in the competitive service. I reviewed our policy with this subcommittee in my statement last June.

Second, a second issue of concern to this subcommittee has been the use of personality tests by employees performing work under contract with the Federal Government. We have explored the legal and practical difficulties in attempting to survey the personnel practices of the far-flung contract activities of the Government.

The contracting practices of the Government for research, development, and procurement are enormously complex. There are, many and varied institutional arrangements to carry out Government work. In many organizations which provide services or products for both Government and private use, it is almost impossible to clearly separate those employees paid primarily from Government funds. As a result of these complexities, I concluded that, as a first step, we would develop information from the principal contracting Federal agencies as to those non-Federal activities which are wholly or primarily performing work for the Government under contract. I received reports

from the General Services Administration, the National Aeronautics and Space Administration, the Department of Defense, and the Atomic Energy Commission.

The General Services Administration reported that, from its extensive knowledge of the personnel practices of its contractors, it knows of no instance of the use of personality tests by any of them. The National Aeronautics and Space Administration queried three typical contractors and found none of them using personality tests. The Department of Defense sampled 22 contractors and found only 2 making some use of personality tests. The Atomic Energy Commission reported 35 contractors falling within the scope of the inquiry. Of these, only four use personality tests in their employment procedures. One other AEC contractor utilizes personality tests as a part of the preemployment medical examinations.

My conclusion from this sampling is that the use of personality tests by non-Federal organizations which are wholly or primarily performing work under Federal contracts does not seem to be widespread. Nevertheless, some problem areas do exist, even in this sample. There may be other uses which have not yet come to our attention. I have, therefore, at the direction of the President, written to the head of every agency, requesting them to review with all their contractors and prospective contractors the use of personality tests in employment. This review is designed to assure that, insofar as possible, personality tests are used only in those circumstances and with the same precautions we exercise within the Federal service in filling Federal positions. My letter states as follows:

> The purpose of this review is to insure that, if personality tests are used other than for professional clinical diagnosis and counseling or in connection with the total medical evaluation of an applicant or employees, such usage meets all of the following standards: (1) Systematic evidence exists that use of such tests does, in fact, provide essential information of direct value in making personnel decisions relevant to the work to be done; (2) test results are interpreted by qualified professional personnel; and (3) adequate precautions are taken to protect the personal nature of the test data and, therefore, the privacy and other rights of the applicant or employee.

In effect, this action follows from my view that, with respect to contractors, we will best be able to achieve, by example and persuasion, the kind of improvement we all believe desirable. Frankly, in view of the complexity of the problem, I do not see at this time a more direct or more practical approach. No doubt problems will arise in dealing with contractors who are not primarily or wholly dependent on Government contracts. We shall have to resolve these problems as they come to light.

I believe my action is commensurate with the very limited extent of use of such tests as our survey indicates. But I do not intend to rest solely on written exhortation. My letter to agency heads also states that I will be asking for a report from them a year from now by which time there should have been an opportunity to review existing contracts as they come up for renewal. A copy of my letter to agency heads is appended to this testimony and can become a part of the record if you wish, Mr. Chairman.

(The letter follows:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 18, 1966.

During the last session of the Congress, hearings were held concerning the use of personality test methods in managing the Federal work force. These hearings were conducted by the Special Inquiry of the House Government Operations Committee, chaired by Representative Cornelius E. Gallagher, and the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, chaired by Senator Sam J. Ervin.

Following my testimony relating to the policy and procedures affecting Federal employees, I was requested to explore the use of personality tests in the selection of persons for work financed by the Government but performed by non-Federal employees.

A review of reports received from the principal contracting departments and agencies reveals that personality tests are not being used in a manner which constitutes an invasion of privacy. There is evidence, however, that some contractors are using personality tests in employment in a way which might not be in line with the policies in effect within the Government.

The President has, therefore, directed me to advise all Federal agencies and departments, that, in negotiating or renewing contracts, they are to review the contractors' policies for use of personality tests. The purpose of this review is to insure that, if personality tests are used other than for professional clinical diagnosis and counseling or in connection with the total medical evaluation of an applicant or employee, such usage meets all of the following standards:

(1) Systematic evidence exists that use of such tests does, in fact, provide essential information of direct value in making personnel decisions relevant to the work to be done.

(2) Test results are interpreted by qualified professional personnel, and

(3) Adequate precautions are taken to protect the personal nature of the test data and, therefore, the privacy and other rights of the applicant or employee.

I anticipate that you will have little difficulty in obtaining a constructive response from organizations which are wholly or primarily performing work for the Government. More complex issues will perhaps be encountered in the case of organizations working primarily in the private sector.

I will be reviewing this situation with you in June 1967 to assess our progress in stimulating improved practices by contractors in utilizing personality tests in employment.

Sincerely yours,

JOHN W. MACY, JR., *Chairman.*

Mr. MACY. Third, the third issue of concern to your subcommittee is the use of personality tests by State and local governments in selecting employees for work on programs supported by Federal grants. This also poses complex administrative problems. Here again the variety of programs is extensive. A 1964 report by the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, attempting to catalog all Federal aids to State and local governments, identified 115 programs approved by Congress for application by 8 executive departments and 11 independent agencies. These include grants-in-aid, shared revenues, loans and advances, and technical assistance. For only a segment of these programs is there a statutory basis for the Federal Government's reviewing personnel practices of the State in spending Federal money. The employees of the federally financed programs must be covered under a State civil service system or a comparable merit system of personnel administration which meets Federal standards. For these, the Division of State Merit Systems in the Department of Health, Education, and Welfare reviews, consults, and offers technical assistance to States and localities in the administration of their employment examinations for grant-in-aid classes of positions. This division has not recommended the use of personality tests because of their lack of public acceptance and of their demonstrated validity for the positions

being filled. However, just as our Federal policy guidelines allow, State civil service or other merit systems should be permitted to engage in scientific research on personnel evaluation methods which they believe may be useful.

Mr. Chairman, I hope this report is responsive to the interests of your subcommittee. I am prepared to offer any further testimony you wish in response to questions that you may have at this time.

Mr. GALLAGHER. Thank you, Mr. Chairman. Your statement is responsive, and I think it has added considerably to the alleviation of the problem that has concerned us for some time. We do have several questions that we would like to ask of you.

As you know, the medical exception in the Commission's prohibition on personality testing is subject to possible abuse. This greatly concerns the subcommittee. Federal agencies can muster a few psychologists and medical doctors, and thus give a legitimacy to mass testing. I am not talking about the air traffic controllers, in this instance. I am talking about an agency which might use the medical cloak to examine secretaries or clerks.

Do you feel you have carefully examined this possibility in your study of agencies not within the purview of the executive civil service?

Mr. MACY. Yes, I believe that our review of the agencies that are excepted from the competitive service indicates that there has been an adherence by those agencies to the standards that we have established, and that there is an awareness on the part of the management of those agencies of the desirability of using these tests only in connection with clinical diagnosis by qualified medical personnel, and they are not extended into other areas. That is my confident judgment at this point.

Mr. GALLAGHER. Now with regard to the President's directive on employees of Federal contractors, I see this move as having an extremely beneficial impact on private industry. I think this is a clear-cut case of the Federal Government taking the lead in its efforts to protect the right of privacy of employees. Do you intend to pursue this vigorously?

Mr. MACY. Yes. As I indicated in the letter to all of the agency heads that is attached to my testimony, there will be a follow-up report from all of the agencies indicating the extent of their compliance and that report will give us an opportunity to get additional information that is not available to us from the sample that we took initially. I believe again that the statement of policy by the Federal Government and the application of that policy in negotiating contracts and approving policies of the contractors will have a very salutary effect.

Mr. GALLAGHER. I agree with you. And I would ask if when your reports have been accumulated, could you give a report to this committee next year?

Mr. MACY. I would be happy to; yes, indeed.

Mr. GALLAGHER. Now in the case of Federal-State cooperative programs, is there any reason why the Department of Health, Education, and Welfare could not make available to State and local agencies information on the Government's prohibition against personality testing? I think this should be mandatory where Federal funds are involved.

Mr. MACY. This could be done. However, they probably should respond for themselves. I am not familiar with the details of their

direction. As I pointed out in my statement, there are some State grant-in-aid programs where the Federal Government does not have any responsibility for determining personnel standards. In those instances any Federal advice would be just that, it would have no binding effect. But I would be pleased to confer with the representatives of HEW to see what steps they can take within existing Federal authority to make known the Federal policy and urge its adoption by the States insofar as their own employees are concerned.

Mr. GALLAGHER. We would appreciate it if you could do that, Mr. Macy.

Mr. MACY. I would be happy to.

Mr. GALLAGHER. Mr. Horton?

Mr. HORTON. Mr. Chairman, I just want to commend Chairman Macy. Throughout this investigation by our subcommittee I think he has been very aware of the problem of personality testing and I think he has certainly shared our concern about this problem. I think that under his direction and leadership the Civil Service Commission is showing the way to prevent the abuse of this type of testing. I only have one or two questions to ask.

With regard to the second issue in your statement, you have indicated that there was a sampling of some of the personality testing by the Department of Defense and Atomic Energy Commission. Can you give us any facts with regard to the type of testing that was used there? Did you get any sample?

Mr. MACY. No. This was a report back that, in the case of the Department of Defense, there were 22 contractors that they checked, and they found in 2 instances there was some use of personality tests. The report was not sufficiently definitive to indicate the manner in which the tests were used. I feel that the letter I sent on May 18 now sets up a standard pattern which the Federal Government will apply in reviewing contractors' policies and that that should cover it.

Mr. HORTON. In other words, the sample you took was just to determine whether or not they were giving personality tests and in how many instances?

Mr. MACY. That is right. We did not go back of that statement. We felt it was better to get the policy out, and ask the contracting officers to apply that policy rather than to try to go into each individual case.

Mr. HORTON. I want to concur with what the chairman of the committee has said, that the Federal Government is leading the way, and I hope the Federal policy will be an example for private contractors dealing with the Government on Government matters. I hope also that this type of approach can be used through HEW, and the other agencies which may have programs dealing with State and local governments. I think that this is a good approach to indicate the Federal Government's concern about this matter of personality testing and the abuse of the testing.

Mr. MACY. Yes. I think this is a place where standard setting by the Federal Government is an appropriate role for the Government to play, to set an example for other employers.

Mr. HORTON. Mr. Chairman, it is not really pertinent to the testimony of Chairman Macy, but I want to make this statement. I have met with some groups in my congressional district and I have heard from a number of my constituents, and I think perhaps there

has been some misunderstanding about the approach of this committee. I just want to state that it is my opinion, and I am sure this is the opinion of the rest of the committee, that we are not condemning all personality testing as such, that we have been concerned about the abuse of personality testing, and early in the course of these hearings recognized there are instances where personality testing can be very effective and very helpful, but under circumstances which protect the rights of the individuals concerned.

I wanted to make this statement, so it would appear again at this stage in our hearings.

Mr. GALLAGHER. Thank you, Mr. Horton.

Mr. HORTON. Thank you, Chairman Macy.

Mr. MACY. Thank you, Mr. Horton.

Mr. GALLAGHER. Mr. Rosenthal.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Thank you, Mr. Macy for again appearing. I join with Mr. Horton and agree with everything he just said about the purpose of these hearings. Having said that, however, there is one point that developed during the course of the hearings that I didn't understand and still don't, and I would appreciate it if I could have the benefit of your wise counsel and judgment on this matter.

A Mr. Luce, the Administrator of Bonneville Power Administration, testified before this subcommittee, I think on the day after you originally testified, Mr. Macy.

Mr. MACY. Yes, I believe it was June 4.

Mr. ROSENTHAL. He seemed, in my editorial expression, one of the strongest proponents and advocates of personality inventory tests. He suggested, on page 206 of the hearings, when Mr. Horton asked him "Where did you get the idea to institute this procedure of testing"—that it had never been done at Bonneville Power prior to his administration—and I also took note you did not include Bonneville Power among those exempted agencies, although you did include TVA. I assume they are in the same category.

Mr. MACY. No. Bonneville is a part of the Department of Interior and would be covered by the provisions of policy relating to the Department of Interior.

Mr. ROSENTHAL. In your statement, on page 1, it is not one of the excepted agencies.

Mr. MACY. No, it would be covered under the policy statement issued by the Commission previously.

Mr. ROSENTHAL. At any rate, in other words, it is not in the same category as these sensitive agencies; is it?

Mr. MACY. No.

Mr. ROSENTHAL. It is not.

Mr. MACY. No.

Mr. ROSENTHAL. Well, that makes my position even a little stronger, although I was willing to retreat from that for the moment. At any rate, when Mr. Horton asked Mr. Luce where he got the idea for the test, since they had not been used prior to his administration, he said "Well, I got the idea from several sources before I became convinced that we should use this type of testing. As I mentioned, I first became familiar with this when I was on the vestry of our church, and was senior warden" and he then went on to tell us that in his church they did give personality inventory tests to ministerial

candidates and he seemed to be impressed with that, and he found the fact that the church gave these tests eliminated any moral responsibility or any moral questions as to someone else giving them.

What specifically intrigued me is he did not give these tests for initial employment, such as the Peace Corps might do, or FAA might do in hiring air traffic controllers. What he did do was to give tests to men who had been with his agency for 10, 15, or 20 years and who wanted or sought higher employment in any one of the categories of positions listed on page 206 of the hearings. For example, if the fellow wanted to be the Seattle area manager, or Spokane manager, or office service manager or budget officer, or if the fellow wanted to be promoted to budget officer or budget coordinator, he then had to submit to personality inventory tests.

And this is notwithstanding the fact that he had been with the agency 10, 15, or 20 years and certainly his performance level had been clearly established. And I think all of the members of this committee prodded Mr. Luce quite vigorously and he refused to yield. He said that, in words or substance, notwithstanding any inhibitions that you, Mr. Macy, may have expressed, he was determined to go ahead with these tests unless he was specifically prohibited by higher authority somewhere along the line from doing it.

Now I think I have stated the case with a reasonably high degree of accuracy, and assuming I have done that, I would be interested in your evaluation of the situation.

Mr. MACY. My view would be, Mr. Rosenthal, that the Commission's policy that I enunciated June 3 would apply to the Bonneville Authority and that under that policy the practice would have to be discontinued unless it was demonstrated that this was a medical evaluation, which had some relevance to the duties that were to be performed in the higher level position.

Mr. ROSENTHAL. He never suggested that was the case.

Mr. MACY. From reading his testimony, I didn't believe that was his case. He had a personal conviction that these tests were useful. A number of managers do, and have in the past. It is our conclusion that they are useful only in a diagnostic context, and where they are used by medically trained people, and as a part of a medical evaluation.

Mr. ROSENTHAL. In other words, to promote a man to budget coordinator you would not suggest that he be given a personality inventory test.

Mr. MACY. Unless it is a budget job beyond any that I have seen in my experience.

Mr. ROSENTHAL. Now if these tests are still being given there, they are now in violation of your regulations or directives.

Mr. MACY. I am under the impression that they have ceased this practice. I would have to verify that. But that is my understanding.

Mr. GALLAGHER. We have been notified that Bonneville has discontinued the tests and they are complying with the directive.

Mr. ROSENTHAL. Mr. Chairman, do we have a letter or document that might be inserted in the record on this?

Mr. GALLAGHER. Yes.

Mr. MACY. I believe you have a letter.

Mr. GALLAGHER. Yes, we have a letter.

(The letter referred to is as follows:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 2, 1965.

Hon. CORNELIUS E. GALLAGHER,
Chairman, Special Government Operations Subcommittee,
Committee on Government Operations,
House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: This is in further reply to your letter of June 28, 1965, concerning personality testing.

Your first question asks what is the Department's policy in relation to (*a*) seeking Civil Service Commission approval of further personality testing and (*b*) contract terms relating to Government contractor's use of personality tests.

Since the Commission has prohibited agencies from using personality tests, as such, in any personnel action affecting employees or positions in the competitive service (which we administratively are extending to the Department's employees and positions in the excepted service), the Department has no present intention of requesting authority from the Commission for the use of personality tests, and no such request will be made unless and until the Commission adopts a Government-wide policy authorizing the use of such tests. As to the second part of this question, pending the adoption of such a Government-wide policy by the Civil Service Commission, no further contracts will be made with private firms for the use of personality tests in connection with applicants for our jobs or employees on our rolls, nor will there be any requirement in any contract with this Department or any of its bureaus or offices that such tests be administered to or used in connection with the employment or assignment of the contractor's employees.

Your second question asks whether there are any instances of contracts entered into by the Bonneville Power Administration in which there is provision relating to personality testing of personnel or job applicants of the contractor, plus estimates of the numbers involved in such testing and the cost. There are no contractual commitments or agreements within this Department containing any provisions relating to personality tests or requiring that contractors test their personnel prior to assigning them to work on matters of interest to the Department.

Your last question asks the extent to which the cost of the consulting firm's assembly of supporting research to justify the Bonneville Power Administration's request for further testing would be borne by the Government. In conformance with our position stated above, the Department will undertake no research, either on its own or through any private firms in the area of personality tests, and will not request any private firm to undertake such research. Hence, if any such assembly of supporting research mentioned in your question is undertaken, it will not be at the request of this Department and the costs will not be borne by this Department.

The positions stated herein are being transmitted to our bureaus and offices for compliance and implementation. I can assure you that the matter of using personality tests within the Department will depend upon whether or not the Civil Service Commission prescribes Government-wide standards and guidelines for use throughout the executive branch. I appreciate your summarizing the reasons for the importance of our concern in this matter and recognize the validity of the points made in your letter.

Sincerely yours,

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

Mr. ROSENTHAL. May I ask for the record, how soon after our hearings did that event take place?

Mr. GALLAGHER. Last September.

Mr. ROSENTHAL. Then at any rate these hearings at least as far as our vigorous proddings did accomplish something.

Mr. MACY. They accomplished a great deal.

Mr. ROSENTHAL. I was distressed that Mr. Luce's commitment to these tests seemed rather extreme. I was also aware in reading the paper recently that he was being considered for a higher position. I was wondering if he could divorce himself from that commitment.

Mr. GALLAGHER. Perhaps he should be subjected to a personality test.

Mr. ROSENTHAL. One of the members of this committee asked him if he had taken such a test at the time of his appointment and he said he probably would have flunked it, which is of great interest.

Mr. GALLAGHER. He said he was a delegate.

Mr. ROSENTHAL. That was one of his qualifications for the job. I remember that quite clearly.

MR. MACY. In fairness to Mr. Luce, he has done a very high quality job as administrator of that program. He evidenced a very strong personal commitment to this particular device. As I say, there are others, other strong advocates of the device. And many institutions are using it now as a part in their selection. We have not found, from our research in the Civil Service Commission, that it provides a meaningful measure of ability in determining whether people should be appointed or promoted to Government jobs.

Mr. ROSENTHAL. Would you differentiate between appointment and promotion?

Mr. MACY. No, my feeling would be the two are the same. A promotion is an appointment by advancement in filling a particular vacancy in an organization.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Cornish?

Mr. CORNISH. Mr. Macy, in the first page of your letter to Federal agencies in regard to the workers of contractors, you state—and you may need some expert assistance on this from one of your assistants——

Mr. MACY. I may very well.

Mr. CORNISH. You state—

> There is evidence, however, that some contractors are using personality tests in employment in a way which might not be in line with the policies in effect within the Government.

I wonder if you could discuss that a little further? Could you give us some examples?

Mr. MACY. May I ask Dr. Maslow to assist me in responding to that?

Mr. CORNISH. Would you introduce Dr. Maslow?

Mr. MACY. May I introduce, Mr. Chairman, Dr. Albert Maslow, who is the Director of the Commission's Center for Research and Development in Tests and Measurements.

Dr. MASLOW. You have asked, I believe, for some examples of the kinds of tests that are being used.

Mr. MACY. That are in violation of the standards that have been set by the Commission.

Dr. MASLOW. The only few examples which we have available are those reported by AEC in some detail. They report, for example, that in several of the Government-owned facilities operated under AEC cost type contract, personality tests are used. One case is the use of a test called the Activity Vector Analysis, for administration to applicants prior to employment for most job classifications. This is under a contract operated for AEC by the Edgerton, Germeshausen & Grier Corp.

The test results are interpreted by supervisors and personnel staff who have received some training in the use of these tests and the

results are used as one of a number of factors in determining eligibility for employment.

Mr. CORNISH. Then this would be an example of nonprofessional people who are involved in the evaluation of the test results?

Mr. MACY. That would be one feature. Also it is being used as a part of the selection process, without being within the context of the medical evaluation.

Dr. MASLOW. A third point I might mention is that the tests in this case are applied to most job classifications, rather than being limited to those particular jobs for which a test might have demonstrated relevance.

A second example of the few here is the use, by Monsanto Research Corp., of the Guilford-Zimmerman Temperament Survey. This is a type of test used by them regularly in personnel selection. The company employs the service of an outside professional in the field of testing, who first evaluates the job and then determines whether a test battery is appropriate as a selection device.

The tests are then administered and scored by the personnel staff, after which the results are evaluated by the specialist.

Now this example would be closer in conformity to the Commission's policy than the first example.

Mr. CORNISH. You did not inquire in your sample of the Department of State, did you?

Mr. MACY. No. These are contracts. We covered the Department of State Foreign Service under the first category that I was referring to, the executive departments outside of civil service.

Mr. CORNISH. The reason why I mention that is this. I understand the Department of State has a number of contracts with various consulting organizations and other groups who do give this sort of personality testing in the selection of their employees. I would gather that these would fall under the contract change which you have suggested as a result of the President's directive?

Mr. MACY. My letter of May 18 was addressed to the Secretary of State as well as to other department heads, and therefore the policy that we have discussed before would apply on contracts negotiated by the Department of State as well as by other departments.

Mr. GALLAGHER. Mr. Macy, I am going to ask to be excused. We are in the process of marking up the foreign aid bill.

Before I leave, please let me express the gratitude of the subcommittee for your cooperation and for the valuable help that you have given to all of the employees in the Federal Government. When people worry about big government and how much bigger it is going to get, I think they can be reassured by the knowledge that we have people like yourself serving in that big government who have concern for the rights of individuals and of people who make up the employment rolls of the Federal Government. You have rendered an extremely valuable service and we are deeply grateful to you.

Mr. MACY. Thank you very much, Mr. Chairman. I appreciate those kind remarks.

Mr. ROSENTHAL (presiding). Mr. Cornish, you may continue.

Mr. CORNISH. Mr. Macy, in regard to the contract review, you state:

The purpose of this review is to insure that if personality tests are used in other than professional clinical diagnosis and counseling, or in connection with

the total medical evaluation of applicants or employees, such usage meets all of the following standards:

1. Systematic evidence exists that use of such tests does in fact provide essential information of direct value in making personnel decisions relevant to the work to be done.

As I understood your testimony last year, isn't it true that such systematic evidence in fact does not now exist in regard to personality tests?

Mr. MACY. As far as research conducted by the Civil Service Commission is concerned, there is no evidence. Therefore, applying this standard would tend to rule out the use of personality tests for the purpose described. But we do not want to foreclose the possibility that future research will produce systematic evidence and that therefore a contractor might be justified in applying it. This is on the frontier of research, there is work going forward, and we want to make sure that we are not frustrating any effort of that kind.

Mr. CORNISH. I didn't want any misunderstanding to exist in the record. But at the present time the Commission does not have in its possession any systematic evidence which would tend to uphold the first point here?

Mr. MACY. That is right.

Mr. ROSENTHAL. Mr. Romney, do you have some questions?

Mr. ROMNEY. Yes, Mr. Chairman.

Chairman Macy, would you please comment on the extent to which the matter of voluntariness in the taking of tests, even the answering of individual questions or parts of tests, is of concern to the Commission? I am including within these tests, of course, those given within the medical evaluation exception. Also, I wonder if you could comment on the possible application of a voluntariness requirement in the criteria which you feel might be applied to contractors and grantees.

Mr. MACY. You make reference to the use of personality tests with respect to medical evaluation? Presuming that this is the only context in which such testing is authorized?

Mr. ROMNEY. Yes.

Mr. MACY. It has been the position of the Commission that, first, such instruments that are used should be very carefully reviewed by the user to eliminate questions that constitute an invasion of privacy. And where certain questions of a personal nature are considered necessary in order to provide an instrument that can be helpful to the medical profession, they are to indicate to the individual, if there is a belief on the part of the individual that this does constitute an invasion, that the individual has the right to pass over such questions and not answer them.

I think the case in point which you may have in mind is the question that was raised with respect to the FAA tests for air traffic controllers, a test that was called to my attention by the subcommittee.

Upon review with FAA, it was found that the instructions were not as clear as they should be on the point of the voluntary nature of the test. The test was reviewed by FAA medical officers, once again, and it was their professional,medical opinion that the test was of value in detecting instances of instability or strain on the part of those who were performing that critical sensitive job, where a high degree of health is necessary.

As I indicated in a letter to the chairman, on April 1, the instructions for the use of these tests were revised to make it clear that the individual who was being tested could avoid the questions which were of a personal nature. They constituted a minority of the total number of questions.

We also had a reassurance on the complete confidentiality of the information that was provided, and that the responses to the tests would be destroyed after the professional analysis had been made. So in response to your point, our belie is that there should be this voluntary quality involved.

Now if these are positions where an analysis of this type is an essential part of the medical review, the unwillingness of the individual to answer may constitute a problem. But we feel that the individual's rights come first.

Mr. ROMNEY. Have these views that you have just presented, Chairman Macy, been clearly spelled out to the affected agencies?

Mr. MACY. The only agency I am aware of at the moment that is doing this within the Federal Government is the FAA and we are following that very closely with the FAA Administrator, and as soon as they have completed this review, we will have an evaluation with them as to whether this particular device is an essential part of their medical evaluation of people performing this work. We are concerned about the air traffic controller occupation anyway. It is one of a great deal of stress and strain and all of us who fly have a high concern that the health standard be one that is carefully protected, that the individuals who are doing this work be in tiptop shape.

So we will be working closely with FAA to see if this device is really contributing to the kind of medical judgments called for. They have some research going forward under the air surgeon of FAA, not only with respect to air traffic controllers, but with respect to pilots. There is a concern as to safety standards in terms of health on the part of pilots and other members of aircrews.

FAA has an obligation under public law to certify that individuals who fly aircraft are in good physical condition.

Mr. ROSENTHAL. Are the pilots given these psychological personality inventory tests?

Mr. MACY. That I don't know. I don't believe they are. I think this particular test is limited to the current review of air traffic controllers in the onroute centers and airport towers.

Mr. ROSENTHAL. I was just thinking in terms of the public interest, if it is useful in determining employment standards for air traffic controllers, it might well be useful for determining standards for pilot employment.

Mr. MACY. It might very well be. Of course, there are two categories of pilots. There are the pilots who are Federal employees, working for FAA, and then there are the pilots of the airlines and private pilots, who have to be——

Mr. ROSENTHAL. I am very much aware of that. But FAA does license these pilots. And it would seem to me that the public interest suggests that continued research in this area might well be useful.

Mr. MACY. This would be a question that the FAA would have to answer.

Mr. CORNISH. Mr. Chairman, may I interject at this point?

Mr. ROSENTHAL. Yes.

Mr. CORNISH. The record ought to show that the former FAA Administrator testified before Congress last year that no commercial air accident has ever been caused by the poor physical or mental condition of an air traffic controller. I offer this for the record, because someone might think there is some evidence that accidents have been caused by air traffic controllers malfunctioning and there is no evidence to indicate this.

Mr. ROSENTHAL. Well, that does leave an area of grayness in the record. I would almost suggest we don't get into this. In the crash over Brooklyn 4 or 5 years ago between two airplanes there were allegations made in many law suits of negligence on behalf of the air traffic controller. But this is a matter about which none of us have any independent knowledge or judgment.

Mr. MACY. I believe Mr. Cornish's point was there was no evidence, and that even if there was some blame on the tower, this was not attributable to any physical handicap on the part of the controllers.

I appreciate that statement, because I don't want to leave an impression that these men are other than fully qualified in every way for performing their service. But the Administrator feels, in order to assure the agency and the public that this is always the case, that there need to be periodic medical checks to assure that this continues to be the case.

Mr. ROSENTHAL. Mr. Romney?

Mr. ROMNEY. I think maybe one thing might be clarified.

You referred a moment ago, Chairman Macy, to the fact that FAA was the only agency where you were aware that this need to communicate your position on voluntariness was present. You are referring to agencies subject to your jurisdiction in the executive branch; is that correct?

Mr. MACY. Yes.

Mr. ROMNEY. Because on the first page of your statement you mention a few instances, in referring to these eight agencies, where such programs were going on.

Mr. MACY. That is right. As a part of Medical evaluation. But they are not subject to the civil service system.

Mr. ROMNEY. I raised this question earlier about voluntariness as a criterion in the position which you have set forth on standards for contractors. Is this something that you think could be covered under one of these three, or is it covered by implication under one of these three?

Mr. MACY. I thought it was covered by implication in terms of the privacy and other rights of the applicant in point No. 3.

Mr. ROMNEY. Chairman Macy, you mentioned in your statement the General Services Administration as having extensive knowledge of the personnel practices of its contractors. Is this unique to the General Services Administration, that it has this extensive knowledge? Why should this be the case in GSA and not other agencies?

Mr. MACY. They were referring here to the major contractors with whom they were dealing, and they did have a more extensive knowledge of the personnel practices of those contractors than was the case in the Defense Department, where there were many more contractors and much more complex contractual relationships.

Mr. ROMNEY. That is all. Thank you.

Mr. ROSENTHAL. Thank you very, very much, Mr. Chairman, for appearing this morning.

Mr. CORNISH. Mr. Chairman, there are a number of documents in connection with this investigation that would be suitable for insertion in the record and I ask permission that they be made part of the record.

Mr. ROSENTHAL. Without objection, they will be included as part of the record.

(The following are letters and other documents relating to the subcommittee's interest in the personality testing program of the Federal Aviation Agency:)

JANUARY 21, 1966.

Hon. JOHN W. MACY, Jr.,
Chairman, U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: I am forwarding the enclosed complaint by the National Association of Government Employees at the request of the Honorable John W. McCormack, Speaker of the House of Representatives.

Briefly, it alleges that approximately 20,000 air traffic controllers employed by the Federal Aviation Agency throughout the country are now being subjected to mass psychological tests which invade their individual privacy by asking questions related to their sexual behavior, political and religious beliefs, and other private matters.

The association states that these Federal workers have been asked whether they believe in birth control, whether they are liberal or conservative thinkers, and a number of other items.

If this is true—and I have no reason to doubt it—I hope you will order an immediate halt to these tests as a violation of the Commission's prohibition against such testing which you so ably described at hearings of the Special Subcommittee on Invasion of Privacy last June.

At that time, you assured the subcommittee that Government tests would be prohibited from calling for information "concerning the political, racial, or religious opinions or affiliations of any persons * * *."

You stated that a few Government jobs, such as air traffic controller, may require psychiatric evaluations to make certain that persons are mentally competent to handle the responsibility. We did not disagree. However, we thought it was clear this does not give anyone—psychologist or psychiatrist—the license to examine the "political or religious or racial opinions" of public workers.

As a matter of fact, your testimony was that "we should not appoint to an air traffic controller position a person about whom there is a reasonable doubt as to whether he can stand up to the pressure of that work."

It is my understanding that the persons who are taking these tests are already air traffic controllers. I would think that the FAA already knows whether these people can perform the job or not. A large number of these employees have been air traffic controllers for many years. Surely, the FAA does not have "a reasonable doubt" about 20,000 employees. These people are not strangers to the Government, I am sure you will agree.

Once again, it appears that another Government agency has gone too far in personality testing. Frankly, I had hoped that our extensive hearings on this matter gave notice to all Government agencies that they must act in the testing area "with full consideration of the rights of the individual," quoting your words from our hearings. Such rights come before privacy-invading journeys into the psyche, even in the name of science. The association states that failure to answer these improper questions will result in dismissal.

I am also disturbed by the mass nature of these tests. I can hardly believe that the Government is going to give 20,000 full clinical evaluations with a doctor-pateint relationship on an individual basis. Yet that is the assurance we received when you testified on the few exceptions that would be made in the Commission's prohibition against personality testing.

Mr. Chairman, I request that you immediately suspend the FAA testing, pending a personal review by yourself of the questions and issues involved. The testers are currently moving from city to city. Unless immediate action is taken, the testing will be completed before these valued Federal employees have an opportunity to assert their constitutional rights.

With kind regards,

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

EXAMPLES OF CONTROVERSIAL QUESTIONS CONTAINED IN THE PERSONALITY TEST USED BY THE FEDERAL AVIATION AGENCY

I am considered a liberal "dreamer" of new ways rather than a practical follower of well-tried ways. (a) true, (b) uncertain, (c) false.

I think the spread of birth control is essential to solving the world's economic and peace problems. (a) yes, (b) uncertain, (c) no.

In intellectual interests, my parents are (were): (a) a bit below average, (b) average, (c) above average.

I admire my parents in all important matters. (a) yes, (b) uncertain, (c) no.

I think it wiser to keep the nation's military forces strong than just to depend on international goodwill. (a) yes, (b) in between, (c) no.

I would like to see a move toward: (a) eating more vegetable foods to avoid killing so many animals, (b) uncertain, (c) getting better poisons to kill the animals which ruin farmer's crops (such as squirrels, rabbits and some kinds of birds).

At 15 or 16, I went about with the opposite sex: (a) a lot, (b) as much as most people, (c) less than most people.

I admire the beauty of a fairy tale more than that of a well-made gun. (a) yes, (b) uncertain, (c) no.

I think the police can be trusted not to ill-treat innocent people. (a) yes, (b) in between, (c) no.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 9, 1966.

Hon. CORNELIUS E. GALLAGHER,
Chairman, Special Inquiry Committee on Government Operations,
House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: I have your letter of January 21 forwarding the allegations by Mr. Kenneth T. Lyons, president of the National Association of Government Employees, concerning the giving of psychological tests by the Federal Aviation Agency to their air traffic controllers.

I know you share my conviction that the health program being carried out by that Agency is of greatest importance to the welfare of the Nation and to the employees themselves.

Since the use of personality tests in the Federal Aviation Agency medical program is completely under the control and direction of qualified medical specialists and is only a part of the total medical study of the individual employee, it is in that respect in accord with the policies which I stated to your Special Subcommittee on Invasion of Privacy last June. The Commission did, in fact, approve medical standards for air traffic controller positions with knowledge that the Federal Aviation Agency expected to utilize an annual physical examination program, including chest X-rays, electrocardiogram, audiogram, medical history, and a psychological test battery. We considered that in such a medical program the decision as to what psychological examination methods to use was properly the responsibility of the chief medical officer of the Agency, just as he determined other aspects of the medical examination procedure.

I am informed that this phase of the Federal Aviation Agency's medical evaluation for employees in air traffic control centers is virtually completed. In view of your request, I am arranging personally to review the test used by the Federal Aviation Agency, and to reexamine our policy and guidelines to agencies, before the next planned phase scheduled for tower personnel begins in April.

I will write to you further as soon as I have completed my review of this test and the issues related to its use.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 1, 1966.

Hon. CORNELIUS E. GALLAGHER,
Chairman, Special Inquiry Committee on Government Operations,
House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: In my letter of February 9, 1966, I stated that I would undertake to review the personality test used by the Federal Aviation Agency as part of its medical evaluation of air traffic controllers. I appreciate the opportunity provided to my staff to meet with Mr. Cornish in order to gain a clear picture of the concerns you have had about a number of the specific questions in the test and the procedures set up to insure the proper use of such confidential information about employees.

From my review I conclude that, in selecting the 16 personality factor test for use in its medical evaluation program, the Federal Aviation Agency applied probably the best available test of its kind to meet the needs of this approved program.

With respect to the question of invasion of privacy, I recognize that there are two interrelated issues. One has to do with whether any of the questions in the test by themselves improperly probe into highly personal matters. The second is whether the administrative controls surrounding the use of the test adequately protect the confidentiality of this kind of medical data.

There are several questions in the test which may be associated with religious or political points of view. These few questions, however, do not directly reveal an employee's religion or political affiliation to such an extent as to warrant invalidating the whole test program. I recognize that the printed instructions do urge the employee to answer every question. I believe, however, that the Federal Aviation Agency has adequately responded to this problem by its amended instructions issued in January. This amendment makes it clear that anyone taking the test may elect not to answer a particular question about which he has strong personal feelings and which he does not care to answer, even in a noncommittal way.

A system has been established by the Federal Aviation Agency to guarantee the confidentiality of the medical information obtained. Under this system the answer sheet is placed in a sealed envelope, by the controller, which is sent directly to the Federal Air Surgeon who forwards all answer sheets to the National Computer Systems of Minneapolis, Minn., for scoring. A profile giving the results of the questionnaire along with the regional answer sheet is returned to the Office of Aviation Medicine, Washington, D.C., where the answer sheets are destroyed. No record thus remains of the responses to individual questions.

I am concerned, as you are, with the mass testing features of the Federal Aviation Agency program. I appreciate why such a widespread effort is required when an agency first undertakes this kind of a program. I understand that the Federal Aviation Agency will appraise very carefully the results of this first medical review. Controllers in the en route centers have completed the first phase of the medical program, and the program for controllers in airport towers will begin in April. From this study, the Federal Aviation Agency should then be able to judge the degree to which this test has helped in identifying employees who, on further intensive clinical evaluation, do require medical attention or, perhaps, reassignment to less demanding work. It may well be that in subsequent stages of this program more individualized means of obtaining such diagnostic information can be worked out.

Based on my recommendation, the Administrator of the Federal Aviation Agency has taken steps to clarify the printed instructions to make it crystal clear that employees are not required to answer a particular question to which they object on personal grounds. I will also recommend to him that if it should be advisable and necessary to use this test in later years, the Federal Aviation Agency should work with the author of the test to develop a modification which would be free of some of the kinds of questions which have been considered controversial in a public service context.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., September 27, 1966.

Hon. JOHN W. MACY, Jr.,
Chairman, U.S. Civil Service Commission,
Washington, D.C.

DEAR JOHN: Once again I feel it is necessary to write you about the conduct of the Federal Aviation Agency's personality testing program for air traffic controllers.

Enclosed are copies of two letters which contain very serious charges relating to this program.

It appears to me that the Federal Aviation Agency is bent upon conducting these tests in such a manner which cannot help but arouse grave public and congressional concern. I would very much appreciate it if you would have your staff give me a complete report on these matters as quickly as possible. I would like to know specifically if these allegations are true and what action has been taken to remedy them.

I know that you share my concern that irregularities of this sort, if substantiated, must be corrected without delay.

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES,
September 13, 1966.

Hon. CORNELIUS GALLAGHER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GALLAGHER: It has been brought to my attention that the Federal Aviation Agency's central region has been advertising the names of Federal Aviation Agency controllers who have failed to complete and/or pass the so-called psychological test that has been issued to all FAA controllers throughout the country.

The Federal Aviation Agency has also allowed the questions and answers of individual's tests to be reviewed by other employees at their agencies. Therefore, our organization feels that Congress should immediately protest the manner and the method of these so-called psychological tests that evade the rights of the air traffic controllers and certainly subjects them to ridicule when the tests are allowed to be reviewed by other employees.

I believe that the lack of security as it pertains to the so-called pyschological test program shows a complete lack of administrative responsibility on the part of the managerial force of the Federal Aviation Agency.

Your cooperation concerning this complaint is greatly appreciated by our air traffic controllers and our national organization. The specific complaints concerning the above emanate from the FAA's Moline tower in Moline, Ill., and many many other air traffic control centers and towers.

Very sincerely yours,

KENNETH T. LYONS, *National President.*

OLDWICK, N.J., *September 1, 1966.*

Hon. CORNELIUS GALLAGHER,
Chairman, Special Subcommittee Investigating Invasion of Privacy,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN GALLAGHER: I have been asked to bring to your attention a situation disturbing a number of personnel of the Newark control tower (FAA). Over a month ago a psychological test was given these men. Approximately 25 refused to answer certain questions they believed an infringement of privacy. The test was taken with the understanding that certain questions did not have to be answered and that information received would be used for statistical purposes only.

Recently each person who did not answer certain questions was interviewed and, I believe, asked—

1. Why were all the questions not answered?
2. Under what conditions would the employee answer all the questions?
3. What action would be taken if forced to take the test again?

The controllers were also advised that the psychological test was now part of the annual second-class medical examination.

It is my understanding that the following organizations are vigorously opposing the compulsory test:

1. The National Association of Government Employees, Washington, D.C.
2. The Air Traffic Control Association, suite 409, ARBA Building, 525 School Street SW., Washington, D.C.; general director, Clifford P. Burton; general counsel, J. D. Hill.

It is my belief that the controllers are concerned over the attitude of officialdom to possibly coerce employees to answer questions which are an invasion of personal privacy. Can you tell me if you as chairman of the Subcommittee Investigating Invasion of Privacy are aware of the situation at Newark, and if anything can be done by you to protect these men's right of privacy? They evidently are in need of help from one such as you. You may remember me as former Hunterdon County assemblywoman.

Trusting to hear from you at an early date, I am,

Sincerely,

MILDRED PREEN MORTIMER.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., October 28, 1966.

Hon. CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR NEIL: In further reply to your letter of September 27, 1966, I can now report to you on the several issues in administration of personality tests by the Federal Aviation Agency referred to in your letter.

My staff has obtained the following facts from Federal Aviation Agency officials with regard to the instances cited by your correspondents:

Mr. Kenneth T. Lyons, in his letter of September 13 to you, alleged that the central region of the Federal Aviation Agency has been advertising the names of air traffic controllers who have failed to complete and/or pass the personality tests. This allegation is flatly denied by the Federal Aviation Agency. The names of any employees whose scores on the test led to the conclusion that a more detailed clinical evaluation would be desirable have been transmitted to the regional flight surgeon concerned only by telephone.

A second allegation by Mr. Lyons is that the Federal Aviation Agency has allowed the questions and answers of individual tests to be reviewed by other employees at their agencies. On this point, the Federal Aviation Agency acknowledges that at the Moline, Ill., tower, the facility chief inadvertently opened the envelopes containing the test materials for some employees to whom the tests were being returned for completion. The facility chief has been cautioned to follow explicitly the established procedures for handling the test papers to insure the complete confidentiality of the test material.

The complaint by Mrs. Mildred Preen Mortimer concerns the refusal of about 25 controllers at the Newark, N.J., control tower to answer certain questions on the personality test. The Federal Aviation Agency has advised us that the facility chief in Newark did tell his employees that they could not omit more than four questions. Upon learning of this the central office told him that this was not a correct interpretation of their policy and an amended statement was issued to all of the air traffic controllers concerned. We have been advised that, following this clarification, the men no longer refused to complete the test.

Officials at the Agency headquarters are frank to admit that, despite their intensive efforts to familiarize the officials at all levels of supervision with the procedural safeguards to be followed, there have occurred the cited instances which indicate that the briefing of officials at the local level was not so thorough as had been hoped for. In any event, in view of the large number of employees

involved, few administrative mishaps have occurred, and the Agency is attempting to prevent such situations and to clear up promptly those that have happened.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

Mr. ROSENTHAL. The subcommittee stands adjourned.

(Whereupon, at 11 a.m., the hearing was adjourned.)

○